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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

BIG ROCK ASSETS MANAGEMENT LLC, a  
Nevada limited liability company,

Plaintiff,

v.

NATIONAL DEFAULT SERVICING  
CORPORATION, BANK OF AMERICA, N.A.,  
a national association; DOES I through X,  
inclusive,

Defendants.

Case No.: 2:22-cv-00909-CDS-DJA

**ORDER DENYING PLAINTIFF'S  
MOTION FOR TEMPORARY  
RESTRAINING ORDER, MOTION FOR  
PRELIMINARY INJUNCTION AND  
EXPUNGING LIS PENDENS**

Pending before the Court was Plaintiff Big Rock Assets Management LLC's Motion for Temporary Restraining Order and Motion for Preliminary Injunction. ECF Nos. 5 & 7. The Motions were filed in conjunction with a quiet title action concerning 2124 Willow Wren Drive, North Las Vegas, NV 89084, APN 124-17-513-086. ECF No. 1-1 at 2-8, 28-29. Defendant Bank of America, N.A. removed this action on June 7, 2022. ECF No. 1. In responding to the Motions, Bank of America moved to expunge the lis pendens. ECF No. 11.<sup>1</sup>

Having considered the moving papers and argument from counsel, the Court **DENIES** Plaintiff's Motions in their entirety since Plaintiff has not demonstrate it is entitled to enjoin Bank of America's foreclosure sale. *See Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 20 (2008). The Court

<sup>1</sup> Upon review of the property records attached to the declaration of Bank of America's counsel, it does not appear Big Rock recorded the Lis Pendens against the subject property. ECF No. 12-1. Big Rock instead recorded the Lis Pendens, as instrument number 202205090002920, against a different property, APN 124-17-613-086.

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also **GRANTS** Bank of America's request in its response to the Motions to expunge the Lis Pendens because Big Rock cannot demonstrate it is "likely to prevail on the merits" or have a "fair chance of success on the merits." *See* NRS 14.015. The Court finds that NRS 106.240 is not applicable because the 2021 notice of default was not a clear an unequivocal act of acceleration for purposes of the statute as of 2010. *See Clayton v. Gardner*, 813 P.3d 997, 999 (Nev. 1991). The statute is also inapplicable because any acceleration triggering NRS 106.240's 10-year clock was rescinded by multiple recorded rescissions. *SFR Invs. Pool I, LLC v. U.S. Bank N.A.*, 507 P.3d 194, 196 (Nev. 2022); *Glass v. Select Portfolio Serv., LP*, 2020 WL 3604042, at \*1 (Nev. July 1, 2020). Moreover, the Court finds that Big Rock is unlikely to prevail on the merits since it is a successor-in-interest to the settlement agreement, *see* ECF No. 12-1 at 101-04, in the prior quiet title action styled *Tyrone & In-Ching, LLC v. Quality Loan Service Corporation*, Case No. A-14-704684-C. ECF No. 11-1. The Court also incorporates its findings and conclusions stated on the record on June 21, 2022, during the hearing on Big Rock's Motions. Given these findings and conclusions, and the disposition herein, this action is one for money damages only to which a lis pendens is not appropriate. *See Weddell v. H2O, Inc.*, 271 P.3d 743, 751 (Nev. 2012).

Accordingly, the Lis Pendens recorded against a different property, APN 124-17-613-086, is hereby **CANCELLED, DISCHARGED AND EXPUNGED. IT IS SO ORDERED. IT IS FURTHER ORDERED** that Big Rock is cannot record the Lis Pendens against the subject property without express permission from the Court. **IT IS FURTHER ORDERED** that a copy of this order expunging the Lis Pendens may be recorded with the Clark County Recorder's office.

Dated this 7th day of July, 2022.

  
UNITED STATES DISTRICT JUDGE  
Case No. 2:22-cv-00909-CDS-DJA

Respectfully submitted by:

**AKERMAN LLP**

/s/ Scott R. Lachman

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